

Exhibit 14

1 UNITED STATES DISTRICT COURT

2 FOR THE WESTERN DISTRICT OF NEW YORK

3 -----
4 **BLACK LOVE RESISTS IN THE RUST, et al.,**
5 **individually and on behalf of a class of**
6 **all others similarly situated,**

7 Plaintiffs,

8 -vs-

1:18-cv-00719-CCR

9 **CITY OF BUFFALO, N.Y., et al.,**

10 Defendants.
11 -----

12 **DEPOSITION OF JOSEPH GRAMAGLIA**

13 **Taken pursuant to Rule 30(b)(6)**

14 **of the Federal Rules of Civil Procedure**

15 APPEARING REMOTELY FROM

16 BUFFALO, NEW YORK

17 January 24th, 2024

18 At 2:15 p.m.

19 Pursuant to notice

20
21 REPORTED BY:

22 Rebecca L. DiBello, RPR, CSR(NY)

23
DEPAOLO CROSBY REPORTING SERVICES, INC.

135 Delaware Avenue, Suite 301, Buffalo, New York 14202
716-853-5544

—JOSEPH GRAMAGLIA—

1 liked how they specifically laid things out.

2 Q. Did you look at any other manuals for similar
3 core principles besides Baltimore?

4 A. I'm sure I did. I just don't remember
5 specifically if I did or I didn't. When I dig
6 into -- and I'm not the only one. Obviously
7 our staff does this, but when we start looking
8 at making changes to our Manual of Procedures
9 we try to look at what some other agencies are
10 doing and it's something that some of our
11 staff has been doing as well.

12 Q. Did you look at any actions Baltimore or other
13 agencies had taken to train officers on these
14 types of core principles?

15 MS. FREELY: Objection to form. You can
16 answer.

17 A. No, I didn't. We are not like other police
18 departments, so the way that trainings are
19 conducted, you know, it's -- agencies have
20 their own rules, regulations, challenges,
21 things of that nature, so I know how we train
22 and when we send out a general order we did
23 contract out with a company called Power DMS.

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—JOSEPH GRAMAGLIA—

1 It was a pretty significant advancement
2 for us when we did. That allows us to
3 electronically send out training bulletins and
4 then get signature confirmation on those, so
5 when we send out a general order or if there
6 are certain trainings it is very difficult to
7 bring in the entire department for training
8 and that takes a considerable amount of time.

9 If we were to train the entire
10 department it would potentially take us six
11 months to a year to do that, so depending on
12 what the level of a topic is, we would prepare
13 a training bulletin, a general order,
14 something of that nature, and then send it out
15 for signature confirmation and this was one of
16 those things.

17 Q. Did you look at whether or did you look into
18 whether Baltimore had taken any steps to
19 implement these core principles beyond putting
20 them in their Manual of Procedures?

21 A. I did not look any deeper than their policy,
22 which Baltimore is under a federal consent
23 decree, a DOJ consent decree, and looking at

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1 that, you know, an officer is making arrests
2 that do not have probable cause behind them,
3 at which point we would open up an internal
4 investigation. We would examine that and then
5 we would take action if warranted.

6 Q. So my question, though, is just did you look
7 at whether Baltimore or any other agencies
8 were taking those types of steps with regard
9 to these core principles?

10 A. I did not.

11 Q. And we touched on some of this on the training
12 issue. Were officers trained on this update
13 to the MOP, and I'm talking about now the City
14 of Buffalo's MOP when it was issued.

15 A. So they would have been sent -- as I laid out
16 before, this would have gone out as a general
17 order with signature confirmation and that is
18 essentially the same as a training bulletin
19 that's sent out. They're made aware there is
20 a change in the policy, so this was one of
21 those that would have been sent.

22 Now, when it comes to training I
23 implemented mandatory annual implicit bias

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—JOSEPH GRAMAGLIA—

1 training. These core principles are
2 incorporated within that implicit bias
3 training, so it kind of goes hand in hand.

4 Q. So as I understand it, this update was sent
5 out and you noted there's an implicit bias
6 training, but there's not any -- there was no
7 specific training relating to this update,
8 correct?

9 A. Not beyond sending out the general order. If
10 it's discussed in policy updates when officers
11 come in through the academy of training, I
12 can't answer that. I believe that you had the
13 captain in earlier who covers topics
14 specifically with him, but the general order
15 is the main mode for delivering this policy
16 change.

17 Q. Does the City do anything or did BPD do
18 anything to ensure that officers understood
19 the meaning of this update to the MOP?

20 MS. FREELY: Objection to form.

21 A. So when they receive it and they do their
22 electronic signature that's their
23 acknowledgement that they have read it and

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—JOSEPH GRAMAGLIA—

1 understood it.

2 Q. Is there any testing or exam of the contents
3 or meaning of this MOP update?

4 A. No.

5 Q. And was there any training of BPD leadership
6 relating to this update?

7 A. Other than our staff meeting where we were
8 working on this together as a group, no. I
9 mean, we spent a lot of time on this.

10 Q. I want to talk about some of these core
11 principles. The first one is traffic
12 enforcement and safety and it says that the
13 purpose of conducting traffic enforcement is
14 to favorably alter the violator's future
15 driving behavior and to foster public safety.
16 Members shall engage in traffic enforcement
17 for public safety purposes and not for the
18 purpose of making an arrest.

19 Do you see that?

20 A. I do.

21 Q. Does this policy prohibit pretext stops?

22 A. So long as the stop is based on probable
23 cause, if they have a violation of the Vehicle

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—JOSEPH GRAMAGLIA—

1 it on the traffic ticket, so how are you going
2 to audit the data that's not there and it
3 would be -- you don't have it. You don't have
4 to it audit.

5 Q. So is there any other reason why those audits
6 are not completed?

7 MS. FREELY: Objection to form.

8 A. The reason is that we conduct traffic stops
9 based on constitutional policing, based on
10 probable cause that the operator of the
11 vehicle committed a vehicle and traffic
12 violation.

13 We don't stop people based on their race
14 in either direction. We stop people if we
15 have a valid reason, probable cause to stop
16 that vehicle for a vehicle and traffic
17 violation. If somebody goes through a stop
18 sign regardless of what their race is and it
19 was in the presence of the officer, which is a
20 requirement for a traffic infraction. It has
21 to be in the officer's presence. They should
22 if they can stop that vehicle and take
23 appropriate action.

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—JOSEPH GRAMAGLIA—

1 Q. Are officers trained on how to identify race?

2 MS. FREELY: Objection to form.

3 A. That's a tricky question. I don't know how to
4 answer that question. Are you trained to
5 identify? I guess no, but they can make
6 general observations. I mean, that's --
7 descriptions are put out of people, of
8 suspects when crimes occur, and in the
9 instance where they have it to the best of
10 their abilities then race would be put out as
11 a part of that.

12 So part of your observation, I think
13 that's anybody, not just officers, but the
14 general public can observe to the best of
15 their ability what somebody's race might be.

16 Q. Isn't there a policy to include race of the
17 motorists on a stop receipt?

18 A. It's required that you have to answer that
19 question, so you have different races that are
20 on there. You also have unknown and you have
21 not reported I believe and you have failed to
22 answer or refuse to answer.

23 Q. And are officers required to fill in the race

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1 We are under contract and migrating into
2 Axon and we are currently in the roughly
3 18-month or more process, but we are building
4 out what is called Axon standards which will
5 take over for both of -- they're simul
6 programs, IA Pro and Blue Team, so everything
7 will be in Axon, so the IAP program is being
8 used.

9 Q. Can IA Pro be used as an early warning system?

10 A. I think Blue Team has the early warning
11 system.

12 Q. Do you know -- we'll get to Blue Team in a
13 second, but Axon, do you know if Axon has
14 early warning system capabilities?

15 A. I don't know. I just know that we can
16 customize and build it any way we want. I
17 can't answer that question. I'm not on the
18 build-up team.

19 I have members of the Department much
20 smarter than I doing all that work.

21 Q. There are quarterly IA Pro meetings, correct?

22 A. There were. I'm not sure when the last one
23 was run.

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—JOSEPH GRAMAGLIA—

1 Q. So those no longer take place?

2 A. I do not sit in those. I don't know when the
3 last time they would have taken place. I'd
4 like to say that as opposed to a quarterly
5 meeting we discuss personnel files. We
6 discuss them on a weekly basis and we look at
7 -- we do more -- I'll say we do more than
8 quarterly meetings. We discuss these on an
9 ongoing basis.

10 Q. So do you generate any sort of quarterly
11 report of the IAD files?

12 A. No. I don't issue -- I don't generate a
13 report.

14 Q. Are you aware of anyone in IAD generating any
15 sort of quarterly report?

16 A. What type of report are you looking for? What
17 are you --

18 Q. Sure. Is there any quarterly report of IA
19 Pro?

20 A. There used to be a quarterly report that was
21 done that would pull any officer that had a
22 certain number of complaints. Forgive me. I
23 don't remember exactly what that number was.

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—JOSEPH GRAMAGLIA—

1 MS. FREELY: Just note my objection to
2 the last question.

3 Q. Are there any restraints on your ability to
4 supervise or monitor officers beyond the ones
5 we've spoken about regarding discipline and
6 scheduling?

7 MS. FREELY: Same objection.

8 A. What do you mean monitor? It's up to a
9 lieutenant, the first line supervisor or any
10 supervisor. If they see an officer starting
11 to stray it's up to them to pull them back in
12 and address that situation, but that's on a
13 more informal basis.

14 Otherwise, if it's formalized it has to
15 be through a formalized process. I mean,
16 that's a core basis of a supervisor, of a
17 first line supervisor or any supervisor is to
18 monitor the employees under their charge.

19 Q. Does the City charter grant you the authority
20 to discipline officers?

21 A. The City charter says one thing and then the
22 disciplinary triage agreement of 2014 says
23 something else and then there was an interest

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—JOSEPH GRAMAGLIA—

1 arbitration award from 1992 that says
2 something else, so there's a 1986 agreement
3 that says something else, so although the
4 charter says one thing, the contractual
5 agreements are different.

6 Q. You do agree that the City charter grants you
7 the right to or the authority to discipline
8 BPD officers, right?

9 MS. FREELY: Form.

10 A. The City charter says one thing, yes. I agree
11 with you with what it says and contractual
12 language says something different.

13 Q. Okay.

14 A. And it's been upheld, so --

15 Q. Is the City aware that the New York Court of
16 Appeals has held that when there's legislation
17 specifically committing police discipline to
18 the discretion of local officers collective
19 bargaining over disciplinary matters is
20 prohibited?

21 MS. FREELY: Form.

22 A. That's more of a question going to the
23 corporation counsel. I work under the advice

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1 of my attorneys and Corporation Counsel. I
2 know what the contract says. I'm getting way
3 outside of my lane if I start getting involved
4 in court decisions and things of that nature.
5 I'm going to stay in my lane on that one.

6 Q. Is it your belief, though, that the CBA
7 supersedes your authority to discipline
8 officers under the City charter?

9 MS. FREELY: Form.

10 A. On the advice of my counsel, yes, I'm
11 interpreting what I read and on the advice of
12 my counsel and what I have seen through
13 sitting through the formal disciplinary
14 process the arbitrator's decision is final and
15 binding and that's been upheld.

16 Q. I want to focus in on 15-B which is about any
17 measures proposed by the City during the
18 collective bargaining process that would
19 improve the City's ability to supervise,
20 monitor and prevent officers from engaging in
21 future misconduct.

22 A. Where are we?

23 Q. In the subtopic list.

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1 (Recess taken.)

2

3 Q. Welcome back, Commissioner Gramaglia.

4 So I want to turn back to Topic 19 which
5 relates to stop receipts. Do you recall that
6 topic?

7 A. I do.

8 Q. Can you just briefly tell me what a stop
9 receipt is?

10 A. A stop receipt is if an officer performs a
11 traffic stop if they are -- in their
12 discretion they are not going to issue a
13 traffic summons. They would then have to
14 issue a stop receipt so when they go back to
15 the car with the documentation, license,
16 registration, they can scan those documents
17 in.

18 It automatically uploads through our RMS
19 system, records management system, and it will
20 print out the date, the time, the location,
21 the complaint number, the officer's
22 identifying information, the vehicle
23 information and then there is a reason as to

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1 again trust and transparency.

2 Q. So you answered some of my questions.

3 So it's mandatory to issue a stop
4 receipt when a ticket is not issued, correct?

5 A. Correct.

6 Q. Okay. And race of the driver can be recorded
7 in a stop receipt, correct?

8 A. It's on the stop receipt, correct.

9 Q. And that field, the race field, needs to be
10 filled out, correct?

11 A. It's a mandatory field. They cannot skip over
12 so they have to fill something in.

13 Q. Has the City done anything to monitor whether
14 officers are filling in race on stop receipts?

15 MS. FREELY: Form.

16 A. We don't have to monitor if they're filling it
17 in or not. It's a mandatory field. You
18 cannot go to the next field if you don't enter
19 something in that field.

20 Q. Besides particular races like say White or
21 Black, are there options such as not available
22 or not sure?

23 MS. FREELY: Form.

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—JOSEPH GRAMAGLIA—

1 A. Yes. There's refuse to answer, not reported,
2 unknown I think were all the fields.

3 Q. Okay. And has the City taken any steps to
4 monitor whether officers are actually using
5 the race options versus the unknown or other
6 options?

7 MS. FREELY: Form.

8 A. Steps to ensure they are, no. Like I said,
9 they have to fill out something, but I do not
10 make it mandatory that the officer ask the
11 motorist what their race is. I testified
12 earlier my reasons for that. I can do it
13 again if you like.

14 Q. If you briefly could just explain why you
15 don't require that.

16 MR. PERRY: I'm advising the witness
17 that I don't want him to guess what his
18 testimony is and testify again. It's been
19 asked and answered, but he said very briefly.

20 A. Just don't want to escalate a situation.

21 MR. JOACHIM: Okay. And I will just say
22 that I object. It seems like there's two
23 attorneys on the other side objecting, which I

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—JOSEPH GRAMAGLIA—

1 MS. FREELY: Form.

2 A. What percentage of stop receipts actually have
3 race identified? I don't know the percentage.
4 I just know that looking at it -- I don't
5 know, two, three weeks ago, a couple of weeks
6 ago, there is significantly more stop receipts
7 issued with race attached than the unknowns
8 that were showing on there.

9 Q. Has the City ever looked into whether specific
10 officers are filling out race or identifying
11 race less often than other officers?

12 MS. FREELY: Form.

13 A. No, we have not.

14 Q. Has the City ever required training for
15 officers who were not identifying race on stop
16 receipts?

17 MS. FREELY: Objection to form.

18 A. No.

19 Q. Has any disciplinary action been taken against
20 any officer for failing to identify race on a
21 stop receipt?

22 MS. FREELY: Same objection.

23 A. No because it's not required.

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—JOSEPH GRAMAGLIA—

1 Q. So is there anything -- is there any
2 prohibition against an officer filling out
3 unknown for the race field on every single
4 stop receipt that he or she completes?

5 MS. FREELY: Form.

6 A. No. The requirement is they actually complete
7 the traffic stop receipt and hand it to the
8 motorist so they have a documentation of the
9 stop, and again when they're given that
10 traffic stop receipt they're given a break.
11 There's no tickets issued. No arrest was
12 made, clearly, so there's no fines associated
13 with that.

14 That's a documentation of a stop and
15 great discretion was used, but the requirement
16 is to give a stop receipt out. All the fields
17 that are required are mandatory fields, so an
18 officer cannot skip a field.

19 Q. But they're not actually required to identify
20 a race if they don't want to, correct?

21 MS. FREELY: Form.

22 A. Correct.

23 Q. Has the City ever undertaken any steps to

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—JOSEPH GRAMAGLIA—

1 analyze racial disparities in stop receipt
2 data?

3 MS. FREELY: Form.

4 A. We have not, no.

5 Q. And why not?

6 A. Because, again, we instruct our officers --
7 they're taught in the academy to stop vehicles
8 when they have probable cause or reasonable
9 suspicion to stop a vehicle and as long as we
10 have constitutional stops and they conduct
11 themselves professionally and there is a legal
12 basis to stop the car, then the officer has
13 met the requirements.

14 Q. Has there been any training of officers on the
15 stop receipt program?

16 A. A training bulletin. When the stop receipt
17 was created it was the policy and also the
18 instructional training -- I'm sorry. The
19 instructions on how to complete it were also
20 sent out for signature confirmation. So they
21 know how to do it, they learn how to do it and
22 then obviously the training bulletin states
23 that if you're not going to issue a summons or

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1 STATE OF NEW YORK)

2 COUNTY OF ERIE)

3
4 I, Rebecca Lynne DiBello, CSR, RPR, Notary
5 Public, in and for the County of Erie, State of
6 New York, do hereby certify:

7 That the witness whose testimony appears
8 hereinbefore was, before the commencement of
9 their testimony, duly sworn to testify the
10 truth, the whole truth and nothing but the
11 truth; that said testimony was taken pursuant
12 to notice at the time and place as herein set
forth; that said testimony was taken down by me
and thereafter transcribed into typewriting,
and I hereby certify the foregoing testimony is
a full, true and correct transcription of my
shorthand notes so taken.

13 I further certify that I am neither counsel
14 for nor related to any party to said action,
15 nor in anyway interested in the outcome
thereof.

16 IN WITNESS WHEREOF, I have hereunto
17 subscribed my name and affixed my seal this
18 4th day of February, 2024.

19 

20 -----
21 Rebecca Lynne DiBello, CSR (NY)
22 Notary Public - State of New York
23 No. 01D14897420
Qualified in Erie County
My commission expires 5/11/2027

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